



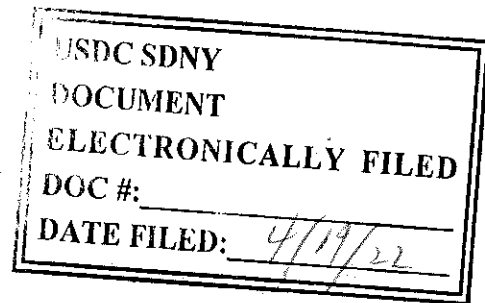
DIVISION OF  
ENFORCEMENT

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

April 18, 2022

**VIA ECF**

The Honorable Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
500 Pearl St.  
New York, NY 10007-1312



**Re: *SEC v. Barksdale, et. al.*, 22 Civ. 1933 (LAK)**

Dear Judge Kaplan:

Plaintiff Securities and Exchange Commission respectfully moves the Court to adjourn the video conference scheduled for April 25, 2022 and to extend the time to file a proposed scheduling order until after the Commission has been able to effect service of process upon Defendants John Barksdale and Jonatina L. Barksdale. The Commission further respectfully moves the Court for leave to file its request for a summons to Defendant John Barksdale under seal, along with any return of proof of service, and to have the Clerk issue the requested summons under seal. In support of these requests, we provide the Court with the following information regarding the Commission's efforts to effect service in this matter.

Based upon the Commission's current information, both Defendants are presently overseas. Although the 90-day time limit for service of process under Federal Rule of Civil Procedure 4(m) does not apply to service of an individual in a foreign country, in light of the Court's March 29, 2022 Order Regarding Scheduling and Initial Pretrial Conference (ECF No. 7), which directed the parties to file an agreed scheduling order by April 19, 2022, and set a video-conference for April 25, 2022, if no such agreed upon order was filed, the Commission respectfully requests additional time to locate the Defendants and complete service of process before any further proceedings are held. If those efforts are unsuccessful, the Commission contemplates moving the Court to permit alternative means of service pursuant to Federal Rule of Civil Procedure 4(f)(3).

The Commission filed its complaint in this matter on March 8, 2022, and then filed its First Amended Complaint on March 14, 2022. Since that time, the Commission has undertaken efforts to locate both Defendants, in order to effect service.

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Regarding Defendant John Barksdale, on November 9, 2021, Mr. Barksdale was indicted in the Southern District of New York on charges of securities fraud, wire fraud, and conspiracy offenses. That indictment was unsealed on March 8, 2022, the same day the Commission's action was filed. As part of its efforts to determine an address at which to serve Mr. Barksdale, the Commission has retained local counsel to investigate his whereabouts, and is prepared to attempt service of process. Because publicly disclosing information regarding Mr. Barksdale's possible whereabouts could adversely affect law enforcement interests, the Commission respectfully requests that all documents related to the service of process on Mr. Barksdale be filed under seal.

With respect to Defendant Jonatina L. Barksdale, the Commission on March 30, 2022 emailed her a copy of the First Amended Complaint, the Court's March 29, 2022 Order, and other documents required to be served by the Court's local rules. The Commission also requested that she provide a physical address at which service could be effected or to which waiver of service materials could be sent, and included copies of the waiver of service documents. One of the email addresses to which these documents and requests were sent, is one from which Ms. Barksdale sent communications to the Commission in connection with its investigation of her, as recently as August 2021. The Commission also copied an email address associated with her brother, Defendant John Barksdale, in its correspondence to Ms. Barksdale. On April 14, 2022, Ms. Barksdale responded, indicating that the Commission's email had been directed to her spam folder and that she would seek counsel and respond to the Commission.

In addition to trying to obtain an address directly from Ms. Barksdale, the Commission is also undertaking other efforts to locate her in order to effect service. In order to locate her precise whereabouts, the Commission plans to seek assistance through diplomatic channels.

Accordingly, the Commission respectfully requests that the Court allow it an additional 60 days, until June 17, 2022 to serve these Defendants. If the Commission is unsuccessful in serving either or both Defendants by then, the Commission will move the Court pursuant to Federal Rule of Civil Procedure 4(f)(3) for permission to employ alternative means of service. The Commission further respectfully requests that all other proceedings and filing deadlines be postponed until after service is complete, in order to afford the Commission the possibility of conferring with Defendants, or any counsel they might retain, regarding an agreed upon scheduling order. Finally, the Commission respectfully requests leave to file its request for a summons to Mr. Barksdale under seal, along with any return of proof of service, and to have the Clerk issue the requested summons under seal. We further request that the Court grant the Commission permission to provide a copy of any summons issued under seal to those parties retained to assist the Commission in effecting service of process on Mr. Barksdale.

**SO ORDERED**

*Granted*  
*Lewis A. Kaplan*  
**LEWIS A. KAPLAN, USBJ**  
*4/19/22*

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Respectfully submitted,

/s/ Christopher J. Carney  
Christopher J. Carney  
Trial Counsel